

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MARIA E. MOSQUEDA,

2:09-CV-921 JCM (LRL)

Plaintiff,

V.

HOME LOAN CORPORATION, et al.,

## Defendants.

## ORDER

Presently before the court is defendant Wells Fargo Bank's (incorrectly named as American Servicing Company) motion to dismiss, which was filed on June 1, 2009. (Doc. #4.) Plaintiff has not filed an opposition. Defendant now asks this court to enter an order dismissing the case based on plaintiff's failure to file an opposition. (Doc. #10.)

While the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion under LR 7-2(d), plaintiff's failure to file an opposition is an insufficient ground for dismissal. *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Before dismissing a case, a district court is required to weigh several factors, including 1) the public's interest in the expeditious resolution of litigation, 2) the court's need to manage its docket, 3) the risk of prejudice to the defendants, 4) the public policy favoring disposition of cases on their merits, and 5) the availability of less dramatic sanctions. *Id.*

These factors weigh in favor of dismissing plaintiff's case as against Wells Fargo Bank without prejudice. This case has been pending in federal court since May of this year. Plaintiff has failed to oppose defendant's motion to dismiss or to otherwise appear in the federal case since filing

1 this complaint. The need for the expeditious resolution of cases on the court's docket is strong.  
2 Further, defendants have an interest in resolving this issue in a timely manner. Although public  
3 policy favors a resolution on the merits, there is no evidence that plaintiff intends to continue  
4 litigating this case.

5 Accordingly,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant's motion to  
7 dismiss (Doc. # 4) be, and the same hereby is, **GRANTED**. This case is dismissed as against Wells  
8 Fargo Bank (incorrectly named as American Servicing Company) without prejudice.

9 DATED this 27<sup>th</sup> day of July, 2009.

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12 **UNITED STATES DISTRICT JUDGE**  
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